

CESAJ-RD-NC (1145b)
SAJ-1998-4316(IP-AWP)

AUG 26 2008

MEMORANDUM FOR RECORD

SUBJECT: Department of the Army Environmental Assessment and
Statement of Findings for the Above-numbered Permit Application

1. Applicant: Florida Department of Transportation - District 5
Attn: Patrick Muench
719 S. Woodland Blvd.
Deland, Florida 32720
2. Location, Project Description, and Existing Conditions: The project is located on U.S. 192 (State Road 530) between the Lake County line east to Captain Kidd Blvd, in Sections 5 and 6, Township 25 South, Range 27 East, and Sections 31 and 32, Township 24 South, Range 27 East, Osceola County, Florida. The project as proposed will impact Lake Chapin and wetlands hydrologically connected to Lake Davenport.

The applicant requested reauthorization of Department of Army (DA) permit 1998-4316(IP-EB) issued on February 18, 1999. The project was not funded for construction and not prioritized by the local Metropolitan Planning Organization prior to the permit expiring. No construction has commenced to date. The applicant proposes to impact 2.55 acres of waters of the United States (wetlands) for the widening of 1.7 miles of SR 530 from a four-lane highway to a six-lane highway. Additionally, due to monetary shortfalls the applicant has requested any DA permit authorized have a 10 expiration date.

The U.S. Army Corps of Engineers (Corps) issued DA permit SAJ-1998-4316(IP-EB) to the Florida Department of Transportation authorizing impacts to 2.1 acres of waters of the United States, including wetlands, for the widening of U.S. 192 between the Lake County line east to Captain Kidd Blvd. The applicant mitigated for wetland impacts by deducting 34.2 acres from Florida Department of Transportation, District 5 - Three Lakes Management Area mitigation bank site authorized by DA permit SAJ-1994-3415. The Florida Fish and Wildlife Conservation Commission (FFWCC) owns and manages the Three Lakes Management Area Mitigation site.

This portion of SR-530 is located in a highly developed tourist area. Impacts will occur within the existing right-of-way. Of

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the 2.55 acres of impact 1.19 will impact willow shrub wetlands, 0.63 will impact bay swamp, 0.72 will impact hydric ditch, and 0.01 will impact Lake Chaplin.

3. Project Purpose: Basic: Widen existing roadway.

Overall: Widen SR 530 from the Lake County line east to Captain Kidd Blvd. including upgrading the existing stormwater management system.

4. Scope of Analysis: The scope of analysis was limited to the project site and included endangered species, essential fisheries habitat concerns, and cultural resources.

5. Statutory Authority: Section 404 of the Clean Water Act (33 U.S.C. 1344).

6. Other Federal, State, and Local Authorizations Obtained or Required and Pending:

a. State Permit/Certification: The South Florida Water Management District (SFWMD) permit number 48-00840-S has not been issued to date.

b. Coastal Zone Management (CZM) consistency/permit: There is no evidence or indication from the State of Florida that the project is inconsistent with the Florida Coastal Zone Management Plan. Issuance of a SFWMD permit will certify that the project is consistent with the CZM plan.

c. Other Authorizations: No information has been received regarding any other authorizations that may be required.

7. Date of Public Notice and Summary of Comments

a. The application was received and considered complete on 10 April 2008. A public notice was issued on 5 May 2008, and sent to all interested parties including appropriate State and Federal agencies. All comments received on this application have been reviewed and are summarized below:

(1) Environmental Protection Agency (EPA): Did not respond to the public notice.

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(2) U.S. Fish and Wildlife Service (FWS): Responded via letter dated 14 May 2008, stating they concur with our determination that the project as proposed "may affect, but is not likely to adversely affect" the endangered wood stork.

(3) National Marine Fisheries Service (NMFS): By letter dated 30 May 2008, the NMFS had no objection to the proposed project.

(4) State Historic Preservation Officer (SHPO): Responded by letter dated 6 June 2008, stating the project site was previously surveyed and reviewed by their office and no historic properties will be affected.

(5) No comments were received from State or Local agencies, organizations, individuals or any other interested party.

b. Applicant's response to the comments: No comments were forward to the applicant.

8. Alternatives:

a. Avoidance (No action, uplands, availability of other sites): The no action alternative would not allow for project completion. The construction of a new road is not feasible given the cost of right-of-way, construction, maintenance, and the environmental impacts which would occur. The alternative selected is the least damaging alternative given existing roadway alignment, roadway network, and projected growth. The project as proposed was previously authorized by a DA permit in 1999. Due to development within the project corridor and increased stormwater regulations, the applicant was forced to redesign the stormwater treatment system. The applicant evaluated alternative pond sites and designs prior to application submittal and determined the alternative selected is the least damaging given the limited right-of-way. The applicant limited its stormwater design analysis to land within the project right-of-way limits. Project funding limitations eliminated the analysis of privately owned parcels.

b. Minimization (modified project designs, etc.): The project has been minimized to the maximum extent possible while still allowing the applicant to achieve the project purpose. The applicant was not asked to further explore minimization

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alternatives beyond those already achieved, given the quality of the existing resource.

c. Compensatory Mitigation (Wetland enhancement, creations, etc.): The applicant funded the acquisition and restoration of the 535.1 acre Three Lakes Management Area Mitigation site in 1994 and generated 334.9 federal mitigation credits to service impacts within the Kissimmee River Drainage Basin. The applicant previously mitigated for 2.1 acres of wetland impacts by deducting 34.2 acres from the FFWCC managed Three Lakes Management Area Mitigation site (16:1 ratio). The ledger was deducted on 19 February 1998. The mitigation area currently has 197.17 credits available for deduction. The applicant will deduct 13.5 credits from the mitigation ledger at a ratio of 30:1 for the additional 0.45 acre of wetland impact. The mitigation site is comprised of dry prairie, wet prairie, freshwater marsh, and pine flatwoods.

The mitigation site is located in Osceola County. Directions to the site are identified from Florida Turnpike, exit onto HWY 192 (Kissimmee/St Cloud); head east on Hwy 192 into St Cloud and take CR 523 (Canoe Creek Road, Vermont Street in town) south to the two entrances on Canoe Creek Road. To get to the 441 entrance from the turnpike, take Hwy 192 east into Holopaw. In Holopaw turn south on HWY 441 and proceed approx 15 mi to Williams Road (Hwy 441 entrance) and turn right. For the Hwy 60 entrance from the turnpike, take the turnpike south to the Yeehaw Junction exit (Hwy 60). Proceed west approximately 14.5 miles to the Three Lakes entrance.

9. Evaluation of the 404(b)(1) Guidelines: The proposed project has been reviewed in accordance with the 404 (b)(1) Guidelines. The review shows that all the alternatives have been reviewed and it has been adequately demonstrated that the proposed alternative is the least environmentally damaging and only practicable alternative considering cost, existing technology and logistics. It would not cause or contribute to violations of State Water quality standards, jeopardize the existence of any endangered species or impact a marine sanctuary. No significant degradation would be expected and all appropriate and practicable steps have been taken to minimize impacts. Any permit authorized will include a special condition which requires the applicant to provide compensatory mitigation to full offset functional loss associated with this action.

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10. Public Interest Review:

a. Corps analysis of comments and responses: All comments received in response to the public notice have been considered in the following public interest review.

b. All public interest factors have been reviewed, including but not limited to the effects the work might have on conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, land use, navigation, shore erosion and accretion, recreation, water quality, safety, and consideration of property ownership. It has been determined that the proposed work will not adversely impact any of the public interest factors.

c. Describe the relative extent of the public and private need for the proposed structure or work: Public benefits include employment opportunities and a potential increase in the local tax base during construction. Additional public need may include an increase in safety, increased carrying capacity of the roadway and more effective movement of vehicular traffic. The increased carrying capacity may also facilitate intrastate/interstate commerce. Private benefits include land use and economic return on the property.

d. Describe the practicability of using reasonable alternative locations and methods to accomplish the objective of the proposed work where there are unresolved conflicts as to resource use: There are no unresolved conflicts regarding resource use.

e. Describe the extent and permanence of the beneficial and/or detrimental effects which the proposed work is likely to have on the public and private uses to which the area is suited: Detrimental impacts are expected to be minimal although they would be permanent in the construction area. The beneficial effects associated with utilization of the property would be permanent. The beneficial effects for public transportation may include an increase in safety, increased carrying capacity of the roadway, and the more effective movement of vehicular traffic. The increased carrying capacity may also facilitate intrastate/interstate commerce.

f. Threatened or Endangered Species: The project is located within the core foraging habitat range of the wood stork. The

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Corps has determined the project "may affect, but is not likely to adversely affect" the wood stork with the inclusion of wetland compensation for the loss of wetland habitat. FWS concurred with this determination via letter dated 14 May 2008.

g. Essential Fisheries Habitat (EFH): The public notice included an initial determination that the project would not have an adverse impact on EFH or Federally managed fisheries. The NMFS did not provide any EFH conservation recommendations in response to the public notice. Therefore, the Corps is satisfied that the consultation procedures outlined in 50 CFR Section 600.920 of the regulation to implement the EFH provisions of the Magnuson-Stevens Act have been met.

h. Corps Wetland Policy: The proposed wetland alteration is necessary to realize the project purpose and should result in minimal adverse environmental impacts. The benefits of the project would outweigh the minimal detrimental impacts. The project would result in a no-net loss of wetland functions and values. Therefore the project is in accordance with the Corps wetland policy.

i. Cumulative and Secondary Impacts: The Corps acknowledges that the project might produce minor secondary impacts, such as increased noise and/or light pollution or minor increases in the level of surface pollutants. However, in consideration of the overall limited amount of new roadway and the use of stormwater management systems, the Corps does not believe that any secondary impacts associated with the project would be significant. Further, the Corps has evaluated secondary impacts to wetlands and required compensatory mitigation to fully offset these impacts. The applicant will utilize Best Management Practices to further reduce any potential secondary impacts. Cumulative impacts will be reduced and/or eliminated by the acquisition of mitigation bank credits and wetland restoration within the same drainage basin.

j. Corps Comments and Responses: No adverse comments were received in response to the public notice.

11. Determinations:

a. Finding of No Significant Impact (FONSI). Having reviewed the information provided by the applicant and all interested parties and an assessment of the environmental

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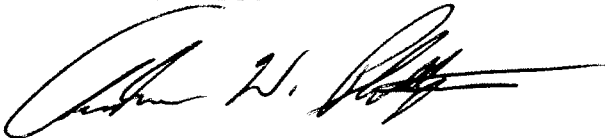
impacts, I find that this permit action will not have a significant impact on the quality of human environment. Therefore, an Environmental Impact Statement will not be required.

b. Compliance with 404(b)(1) guidelines. Having completed the evaluation in paragraph 7 above, I have determined that the proposed discharge complies with the 404(b)(1) guidelines.

c. Public interest determination: I find that issuance of a Department of the Army permit is not contrary to the public interest.

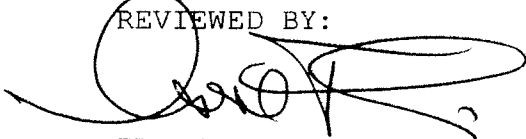
d. Section 176(c) of the Clean Air Act General Conformity Rule Review: The proposed permit action has been analyzed for conformity applicability pursuant to regulations implementing Section 176(c) of the Clean Air Act. It has been determined that the activities proposed under this permit will not exceed *deminimis* levels of direct emissions of a criteria pollutant or its precursors and are exempted by 40 CFR Part 93.153. Any later indirect emissions are generally not within the Corps' continuing program responsibility and generally cannot be practicably controlled by the Corps. For these reasons a conformity determination is not required for this permit action.

PREPARED BY:



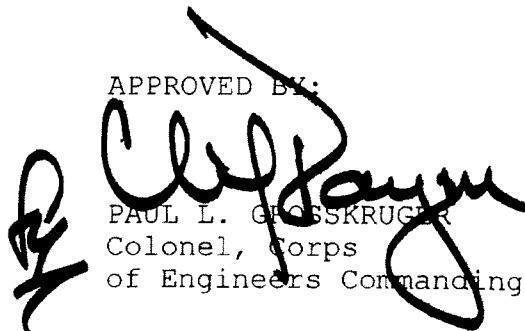
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